

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARCEL D. FORD,

Plaintiff,

v.

STATE OF CALIFORNIA, et al.,

Defendants.

No. 1:23-cv-01531 GSA (PC)

ORDER DISREGARDING APPLICATION TO
PROCEED IN FORMA PAUPERIS AS
IMPROPERLY FILED

(ECF No. 2)

ORDER DISREGARDING MOTION FOR
ORDER APPOINTING REFEREE AS
IMPROPERLY FILED

(ECF No. 3)

ORDER TO SUBMIT APPLICATION
TO PROCEED IN FORMA PAUPERIS
OR PAY FILING FEE WITHIN 30 DAYS

PLAINTIFF'S APPLICATION TO PROCEED
IN FORMA PAUPERIS OR FILING FEE DUE
JANUARY 5, 2024

Plaintiff is a state prisoner proceeding pro se in a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has not paid the \$402.00 filing fee, nor has he submitted a proper application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915.

Before this Court is a motion to proceed in forma pauperis and a motion for an order to appoint a referee. ECF Nos. 2, 3. For the reasons stated below, both motions will be disregarded as improper. In addition, if Plaintiff wishes to again apply to the Court to proceed in forma pauperis he is ordered to do so on this Court's application form.

1 I. IN FORMA PAUPERIS APPLICATION

2 Plaintiff's in forma pauperis application is on a Judicial Council of California form, which
3 is used in state superior courts. See ECF No. 2. As a result, it does not contain the information
4 required to be provided in federal court when a prisoner requests to proceed in forma pauperis.
5 See generally 28 U.S.C. 1915(a)-(b). Therefore, the application will be disregarded as improperly
6 filed.

7 II. MOTION FOR AN ORDER APPOINTING REFEREE

8 Plaintiff's motion for an order appointing a referee to this matter is also improper and
9 therefore must be disregarded. See ECF No. 3. In order to commence an action, a litigant must
10 file a complaint as required by Rule 3 of the Federal Rules of Civil Procedure, and he must either
11 pay the appropriate filing fee or file an application requesting leave to proceed in forma pauperis.
12 See 28 U.S.C. §§ 1914(a), 1915(a)(1)-(2); Fed. R. Civ. P. 3.

13 Plaintiff has not been granted in forma pauperis status yet, nor has he paid the filing fee.
14 The Court will not issue any orders granting or denying relief until an action has been properly
15 commenced. Any motions filed prior to the commencement of this matter are premature, and the
16 Court will not consider them. Additionally, Plaintiff has used a State of California form in making
17 this request, which again is improper for use in Federal Court. For these reasons, this motion
18 will also be disregarded as improperly filed.

19 Accordingly, IT IS HEREBY ORDERED that:

- 20 1. The Clerk of Court shall send Plaintiff a copy of this Court's application to proceed in
21 forma pauperis;
- 22 2. Plaintiff's motion to proceed in forma pauperis (ECF No. 2) is DISREGARDED as
23 improperly filed;
- 24 3. Plaintiff's motion for an order to appoint a referee (ECF No. 3) is DISREGARDED as
25 improperly filed, and
- 26 4. Within thirty days of the date of service of this order, Plaintiff shall submit the
27 attached application to proceed in forma pauperis, completed and signed, or in the alternative, pay
28 the \$402.00 filing fee for this action. **No requests for extension will be granted without a**

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2 **showing of good cause. Failure to comply with this order will result in dismissal of this**
3 **action.**

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5 IT IS SO ORDERED.

6 Dated: **December 6, 2023**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE